

Border regions for the European Green Deal

Obstacles and solutions
to cross-border
cooperation in the EU



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Preface

For the past three decades, Interreg has been one of the main triggers for cross-border cooperation in Europe. It has supported people and organisations in border regions to interact in the territory 360° degrees around them, regardless of the existence of a national border. It has shown in practice the advantages of free movement within the European Union.

But while Interreg has deeply enhanced cross-border cooperation, it has also shown that internal borders still pose many legal and institutional obstacles. These are frequently due to incompatible applicable legal frameworks, or lack of administrative procedures that take into consideration a potential cross-border application. The more we cooperate, the more we identify those cases where seamless interaction between border regions needs adaptation of legal frameworks or procedures. Such adaptation is a necessary condition to maximise the impact of Interreg funding and, ultimately, to promote the development of those territories and their residents.

With *b-solutions* the European Commission and the Association of European Border Regions intended to do precisely that: to pilot cases demonstrating that overcoming those obstacles is not only necessary, but possible. This has been done through an in-depth investigation of each individual case: one specific obstacle on one specific border affecting a clearly defined group of people.

In the ninety cases already addressed, classified by thematic area, some recurrent problems appear. Although we need to treat each case individually, because local context might be different, there is a clear potential to learn from other borders' experiences.

This publication is part of a set of three thematic documents that brings together the experiences and knowledge in different fields. In border regions for the European Green Deal, we look at cross-border obstacles related to environment, energy and climate change.

I trust that this publication can make a positive and significant contribution towards greener cross-border regions.

Slawomir Tokarski

Director – European Territorial Cooperation

European Commission Directorate General for Regional and Urban Policy

How to implement the European Green Deal in border regions?

THE INCREASING PRESSURE TO FIGHT CLIMATE CHANGE

The global agenda has been subject to significant alterations as a result of the impact of the COVID-19 pandemic. As we slowly move past it, other critical challenges come back to the forefront of both global and European priorities, such as the widely supported battle against climate change.

In this regard, the recent report produced by the Intergovernmental Panel on Climate Change (IPCC)¹ has confirmed the need to accelerate global efforts. After more than three decades laying the groundwork for the study of climate change, evidence has multiplied and the report considers that human influence has unequivocally warmed the global climate system, and climate change is already affecting many extreme weather and climate events in all regions of the world, including heat waves, heavy rainfall, droughts and tropical cyclones². Unfortunately, as United Nations (UN) Secretary General António Guterres commented in the presentation of the UN report *United in Science 2021*, “the disruption to our climate and our planet is already worse than we thought, and it is moving faster than predicted”³.

In that context, the European Green Deal⁴ proposed by the European Commission in 2019 becomes an even more urgent than ever before plan to turn the EU into the first climate-neutral continent by 2050 and is an essential part of the EU’s policy to implement the United Nations’ 2030 Agenda⁵ and the Sustainable Development Goals⁶.

At the European level, to achieve its ambitious goals, the Green Deal is reflected in all relevant policy areas as well as in the common provisions for shared management funds⁷.

We are currently immersed in a change of paradigm towards a more environmentally friendly culture and development model, yet there are still different aspects, from policies and regulations to financial resources and public information, that require further reflection and observation. The time to take action has arrived and there are still many territories that would benefit from additional guidance and support. This applies in particular to border

1 Intergovernmental Panel on Climate Change, Reports, *6th Assessment Report*. Retrieved from: <https://www.ipcc.ch/assessment-report/ar6/>.

2 See note n. 1, p. 5.

3 World Meteorological Organisation, Resources, *United in Science 2021*. Retrieved from: https://public.wmo.int/en/resources/united_in_science.

4 Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions; *The European Green Deal*, COM/2019/640 final. Retrieved from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1588580774040&uri=CELEX:52019DC0640>.

5 United Nations, Department of Economic and Social Affairs – Sustainable Development, *Transforming our world: the 2030 Agenda for Sustainable Development*, <https://sdgs.un.org/2030agenda>.

6 United Nations, Department of Economic and Social Affairs – Sustainable Development, *The 17 Goals*, https://sdgs.un.org/goal_section.

7 Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy, PE/47/2021/INIT, *Official Journal L 231*, 30.6.2021, p. 159–706.

regions, due to their specificity of being a meeting point of often diverging, sometimes incompatible legal, administrative and technical frameworks present in neighbouring countries. This situation creates specific challenges that require particular attention.

THE EUROPEAN GREEN DEAL AND BORDER REGIONS

The Green Deal must be implemented in every region across the EU in order to be effective: no region can be left behind in the transition towards a more sustainable use and management of natural and physical resources. For 30 years, European Territorial Cooperation has financed thousands of projects focussing on the environment and aiming to protect and manage it sustainably across all European regions, and especially border regions. Under the new Interreg regulation, programmes will continue to support the Union's climate objectives, financing activities that respect climate and environmental standards⁸.

However, different obstacles make the implementation of the Green Deal in border regions difficult, or at least slow. This is confirmed in the report *EU Border Regions: Living labs of European integration*⁹. Here, the European Commission presents examples that hamper the implementation of the Green Deal in border regions. Different legal frameworks regulating the management of natural parks and protected areas resulting in less effective protection, less efficient measures addressing risk situations like fires and floods, and sub-optimal deployment of renewable energy are some of those examples.

As a result, to address such hindrances in the future, the European Commission plans to undertake the following actions¹⁰:

- Promoting cooperation in the framework of already existing tools within the European framework, such as the Union Civil Protection Mechanism¹¹ and the Natura 2000 network¹²;
- Stimulating the dialogue between regions and across borders and improving the guidelines on national adaptation strategies¹³, in close cooperation with the Member States;
- Encouraging local stakeholders to increase their participation in cross-border projects under the consolidated Renewable Energy Directive (RED II)¹⁴;
- Disseminating more information and lessons learned from the pilot project “Luxembourg in transition: a vision for a zero-carbon cross-border functional region”¹⁵ in the framework of the *Territorial Agenda 2030*¹⁶.

In the *Territorial Agenda 2030*, ministers responsible for spatial planning, territorial development and/or territorial cohesion also recommend the need for place-based strategies, cooperation and coordinated policies to achieve sustainable development and fight climate change – and especially so when taking into consideration cross-border territories¹⁷.

8 Regulation (EU) 2021/1059 of the European Parliament and of the Council of 24 June 2021 on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments, PE/49/2021/INIT, *Official Journal L 231*, 30.6.2021, p. 94–158.

9 Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *EU Border Regions: Living labs of European integration*, COM(2021) 393 final. Retrieved from: https://ec.europa.eu/regional_policy/en/information/publications/reports/2021/eu-border-regions-living-labs-of-european-integration.

10 See note n. 9, p. 13.

11 European Commission, European Civil Protection and Humanitarian Aid Operations – EU Civil Protection Mechanism, https://ec.europa.eu/echo/what/civil-protection/mechanism_en.

12 European Commission, Environment – Natura 2000, https://ec.europa.eu/environment/nature/natura2000/index_en.htm.

13 The new EU Climate Adaptation Strategy includes this and other references to borders. See Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee Of the Regions, *Forging a climate-resilient Europe – the new EU Strategy on Adaptation to Climate Change*, COM/2021/82 final. Retrieved from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2021:82:FIN>.

14 Proposal for a Directive of the European Parliament and of the Council on the promotion of the use of energy from renewable sources (recast), COM/2016/0767 final/2 – 2016/0382 (COD).

15 Government of the Grand Duchy of Luxembourg, Luxembourg in transition, <https://luxembourginttransition.lu/en/>.

16 Territorial Agenda 2030 – A future for all places. Retrieved from: https://territorialagenda.eu/wp-content/uploads/TA2030_jun2021_en.pdf.

17 See note n. 16, p. 23.

The *Territorial Agenda* also indicates actions for cross-border cooperation between regions in different countries, to help make better use of development potential and address common challenges such as climate change, loss of biodiversity and a more sustainable use of land. One of its objectives is to embed stable territorial cooperation in development strategies, for example including “strategic Interreg cooperation, the Initiative on Knowledge and Innovation Communities by the European Institute of Innovation & Technology (EIT KIC Initiatives), Smart Specialisation Strategy (S3) platforms, EU Strategic Value Chain Consortia, Horizon Europe cooperation, European Groupings of Territorial Cooperation (EGTC), mainstream EU Cohesion Policy programmes, macro-regional strategies, inter-metropolitan cooperation, functional regions governance, cross-border planning and legal cross-border agreements”¹⁸.

Yet, in spite of all these tools, many legal and administrative obstacles to cooperation beyond borders remain, and more knowledge is needed in this particular field for policymakers at all governance levels to be able to coordinate actions for a greener Europe.

In the last four years, with the implementation of the *b-solutions*¹⁹ initiative, the European Commission’s Directorate-General for Regional and Urban Policy (DG REGIO) and the Association of European Border Regions (AEBR) have produced a notable amount of knowledge on the obstacles that prevent border regions from being more sustainable and resilient to climate change.

Cross-border cooperation actors, such as officers from European Groupings of Territorial Cooperation (EGTCs), Euroregions, Interreg project partners and other structures, as well as local and regional authorities from border regions all over the EU, have submitted cases illustrating difficulties in order to plan and implement measures to manage protected areas across national borders, ensure responses on both sides of national borders in the case of wild fires, implement sustainable public transport and improve the provision of renewable energy in border regions. In the framework of *b-solutions*, participants have received advice from legal experts to find sustainable solutions to such obstacles.

The objective of this publication is to provide actors in border regions with a tool to support them in setting up and carrying out cross-border initiatives to promote a greener EU. It does so by:

- revising and sharing the specific knowledge on obstacles to cross-border cooperation in the field of sustainability;
- informing of the findings and best practices that inspire potential solutions;
- encouraging the uptake and replication of viable solutions; and
- contributing to the collective and ongoing learning process about how to improve cross-border mechanisms in the EU.

This publication addresses border stakeholders, regional and national authorities and policymakers. It uses evidence extracted from the analysis of 16 border cases across Europe (see map below) to assist local actors in designing and implementing policies for a “greener” Europe and complement other recommendations and legislative or financial tools already developed by the European institutions.

¹⁸ See note n. 17, p. 18.

¹⁹ Association of European Border Regions (AEBR), *b-solutions*, <https://www.b-solutionsproject.com/>.



Distribution of the obstacles linked to the European Green Deal objectives identified in the framework of b-solutions

SUMMARY OF FINDINGS IN THE FIELD OF GREEN POLICIES

OBSTACLES	
LEGAL	ADMINISTRATIVE
<ul style="list-style-type: none"> • The joint establishment and management of infrastructure • Diverging national rules on permits to design and build infrastructure • Inconsistent legal competence on spatial planning • Different regulations on necessary technical requirements • The lack of revision of the law • The lack of specific provisions considering the cross-border dimension • The lack of EU-wide standardised norms 	<ul style="list-style-type: none"> • Different spatial dataset references for mapping and collecting data • Different technical standards for environmental management criteria • The absence of an ad-hoc cross-border structure or entity in charge for the coordination of the natural site • The absence of a joint mechanism to regulate the exchange of data

SOLUTIONS			
LEGAL	EUROPEAN CROSS-BORDER MECHANISM (ECBM)	ENHANCED ADMINISTRATIVE CAPACITY AND COORDINATION	CROSS-CUTTING SOLUTIONS
<ul style="list-style-type: none"> • Amendments or improvement of existing legislation at the European level • Fostering harmonisation at the supranational level • Revision or update of current provisions on one or both sides of the border • Creation of ad-hoc legal frameworks 	<p>Voluntary participation in a mechanism to overcome legal obstacles</p>	<ul style="list-style-type: none"> • Set up of a joint management structure • Creation of a single or unified command • Harmonisation of datasets, methods and technical environmental management standards 	<ul style="list-style-type: none"> • Creation of specific consortium of relevant actors from both sides of the border • Awareness-raising actions • Trainings local actors engaged in a specific project

Which obstacles has *b-solutions* identified?

The European Green Deal identifies specific actions in various policy areas to realise both the green transition in territories and the EU climate ambitions in 2030 and 2050.

In each field, a variety of decisions and measures need to be taken to achieve the final goal of sustainability, and an array of actors, working at different levels, have competences to implement the necessary policies.

UNDERSTANDING THE OBSTACLES: THE DIFFERENT CONTEXTS

The local and regional border stakeholders who participated in the *b-solutions* initiative have experienced difficulties implementing projects to shift towards more environmentally friendly outputs in all fields of action included in the EU Green Deal. The following table presents the obstacles identified in each area:

POLICY AREA	OBSTACLE
Clean, affordable and secure energy	<ul style="list-style-type: none">• lack of legal provisions supporting the exchange of clean energy²⁰
Clean and circular economy	<ul style="list-style-type: none">• diverging and uncoordinated spatial planning criteria to establish CO₂ pipelines²¹• diverging technical standards to collect electrical and electronic equipment waste (WEEE)²²• non-harmonised national provisions regulating the transport of manure as an agricultural fertilizer²³
Energy and resource efficient buildings	<ul style="list-style-type: none">• mismatching regulations for wood construction at the border²⁴

20 Association of European Border Regions (AEBR), European Commission, *b-solutions: Solving border Obstacles – A compendium 2020–2022*, p. 148 (henceforth: 2021 *b-solutions* compendium). Retrieved from <https://www.b-solutionsproject.com>.

21 Association of European Border Regions (AEBR), European Commission, *b-solutions: Solving border Obstacles – A compendium of 43 cases, Annex, 2020*, p. 136 (henceforth: 2020 Annex *b-solutions* compendium). Retrieved from <https://www.b-solutionsproject.com>.

22 Annex of 2020 *b-solutions* compendium, p. 139.

23 2021 *b-solutions* compendium, p. 142.

24 2021 *b-solutions* compendium, p. 130.

Sustainable and smart mobility	<ul style="list-style-type: none"> • lack of automatic recognition of diplomas of engineers working on a cross-border pedestrian infrastructure²⁵ • uncertainties on how to establish a cross-border bike sharing system and assign its management to an EGTC²⁶ • uncertainties on how to establish a cross-border e-bike sharing system²⁷
Fair, healthy and environmentally friendly food system	<ul style="list-style-type: none"> • different national standards for wastewater management and re-use²⁸
Preservation of ecosystems and biodiversity	<ul style="list-style-type: none"> • different and uncoordinated systems to collect hydrogeological data²⁹ • diverging legal, organisational and technical principles to produce cartographic and hydrographic data³⁰ • lack of coordination and information exchange between the border authorities managing a nature reserve³¹ • lack of coordination and information sharing between cross-border teams fighting wildfires³² • difficulties in the coordination and communication of cross-border emergency teams³³ • lack of ad-hoc legal frameworks regulating joint emergency actions in the case of natural disasters³⁴
Zero pollution	<ul style="list-style-type: none"> • diverging national standards on car emissions certificates³⁵

Citizens living in border regions have brought up similar concerns in the public consultation on overcoming cross-border obstacles in 2020, carried out by the European Commission's Border Focal Point³⁶. Its summary report highlights obstacles related to circular economy, the joint management of environmental protection projects and the cross-border supply and distribution of renewable energies.

25 Annex of 2020 *b-solutions* compendium, p. 89.

26 2021 *b-solutions* compendium, p. 145.

27 Annex of 2020 *b-solutions* compendium, p. 83.

28 Annex of 2020 *b-solutions* compendium, p. 127.

29 Annex of 2020 *b-solutions* compendium, p. 36.

30 Annex of 2020 *b-solutions* compendium, p. 40.

31 2021 *b-solutions* compendium, p. 136.

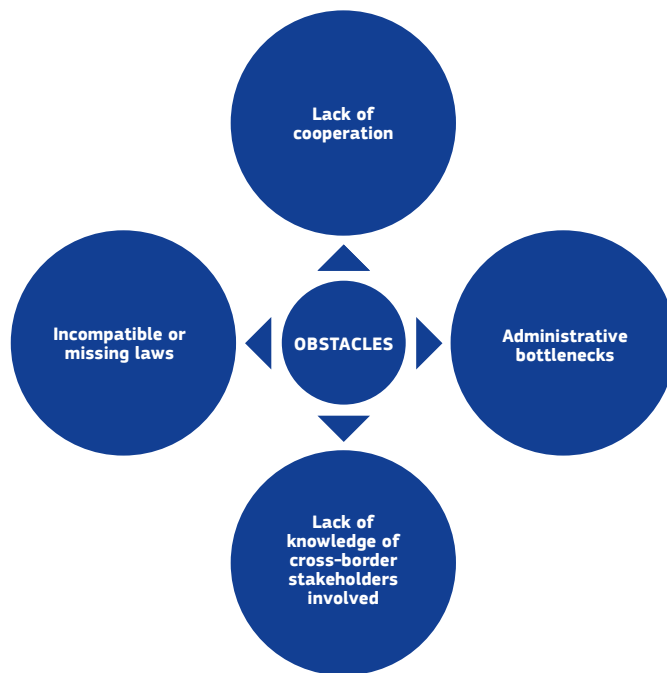
32 2021 *b-solutions* compendium, p. 133.

33 2021 *b-solutions* compendium, p. 139.

34 2021 *b-solutions* compendium, p. 151.

35 Annex 2020 *b-solutions* compendium, p. 77.

36 European Commission, *Public consultation on overcoming cross-border obstacles 2020 – summary report*, pp. 20-21. Retrieved from: https://ec.europa.eu/regional_policy/sources/newsroom/consultation/consultation_border_2020.pdf.



WHICH SPECIFIC OBSTACLES NEED TO BE TACKLED?

Despite the very different causes and factors that determine the existence of obstacles, the work undertaken by *b-solutions* shows that there are several common elements that deserve particular attention:

The causes of the obstacles that will be described more in detail in the following sections already point out the difficulties that local actors in border regions face when implementing measures aimed at environmental protection or at enhancing preparedness and adaptation to catastrophes and natural disasters. For example, different legislation, policies and priorities in each Member State converge at national borders, creating a policymaking context characterised by uncertainty and incongruent legal provisions.

LEGAL OBSTACLES HAMPERING THE EUROPEAN GREEN DEAL

The majority of the hurdles observed in terms of the environment in the framework of the *b-solutions* initiative are of a legal nature.

Their root causes lie mostly within the national legislation of the Member States involved, whose provisions prove to be incompatible when they converge at the border.

Less often, the cause of the legal obstacle is identified in the European legal framework. The source of bottlenecks within the European framework mostly reflects the lack of awareness about the reality of border regions, as in most cases regulations do not take into account harmonisation between Member States, creating additional challenges in cross-border contexts.

The following are some of the most common factors causing the legal obstacles identified in *b-solutions*:

- **The complexity of establishing and managing infrastructures in cross-border areas.**
Example: Setting up cross-border bike sharing systems is particularly complicated both for the EGTC GO³⁷, at the Italian-Slovenian border, and the Belgian Ministry of the German Speaking community³⁸, along the Belgian and the German border, as national provisions regulating public procurement or taxation differ in the Member States involved.
- **The presence of different national rules on permits to design and build infrastructures.**
Example: The construction of a trilateral foot bridge in the territory of the Euroregion Nisa, where Germany, Poland and the Czech Republic meet is causing difficulties because the Czech national rules (Authorisations Act 2004) require all engineers involved to be registered with the Czech Chamber of Chartered Engineers. Since the professionals working on the project were from all three neighbouring countries, the construction procedure has slowed down significantly³⁹.
- **The existence of an inconsistent legal competence on spatial planning.**
Example: The Province of West Vlaanderen and the Euregio Scheldemond, for example, are engaged in implementing a system for transporting and re-using waste CO₂ from industry in the territory of the North Sea Port, at the Belgian-Dutch border. However, the construction of the necessary pipelines is limited by the Dutch External Safety of Pipelines Decree (*Bevb.*) and the Belgian Guidelines on underground pipelines that set different spatial planning criteria and identify actors at different levels responsible for the release of the relative building permits⁴⁰.
- **Different regulations on the necessary technical requirements.**
Example: Building wooden houses in the territory of the Svinesund Committee is complicated because the Swedish (*PBL 2010:900*) and the Norwegian (*LOV-2008-06-27-71*) legislations set different requirements on the planning and building of houses⁴¹.
- **Outdated laws.**
Example: In France, for instance, the Environmental Code and its implementing decrees contain rules on wastewater management that are vastly outdated and not in line with current EU legislation⁴². Because of this reason, cooperation with the Spanish partners in the framework of the Interreg project WETWINE is at stake.
- **The lack of specific provisions considering the cross-border dimension of the area.**
Example: The 1998 Dutch Electricity Act permits transporting electricity across borders only through high-voltage grids, thus preventing distribution level exchanges in the cross-border area between Germany and the Netherlands. At the same time, the German Renewable Energy Sources Act (*EEG 2021*) provides only for the electricity which is produced on German territory. Because of this, the exchange of electricity between the two countries is hampered⁴³.

37 2021 *b-solutions* compendium, p. 145.

38 Annex of 2020 *b-solutions* compendium, p. 83.

39 Annex of 2020 *b-solutions* compendium, p. 89.

40 Annex of 2020 *b-solutions* compendium, p. 136.

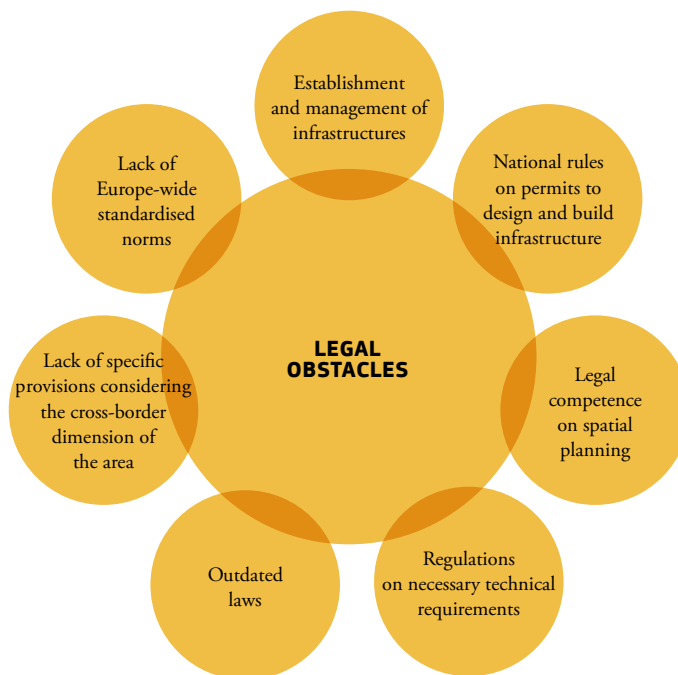
41 2021 *b-solutions* compendium, p. 130.

42 Annex of 2020 *b-solutions* compendium, p. 139.

43 2021 *b-solutions* compendium, p. 148.

- **The lack of Europe-wide standardised norms.**

Example: The current set of directives on air quality is implemented differently in various Member States and the diverging transpositions at the national level can make cooperation in border regions complicated. This happens, for example, at the French-German border, where the respective laws implementing the EU Directives (*BImSchG* and *Code de la Route*) contain diverging categorisations for the certificates on car emissions (vignettes) needed to enter specific “environmental zones”, with a negative impact on cross-border mobility⁴⁴.



THE LACK OF ADMINISTRATIVE COOPERATION HINDERS “GREENER” BORDER REGIONS

Other obstacles occur because competent authorities work differently on each side of the borders. The achievement of a climate-neutral Europe by 2050 requires a paradigm shift in policymaking at all levels, and the territorial dimension of the European Green Deal is essential. In this sense, coordination with stakeholders across the borders is necessary to create policies that work in practice. Obstacles identified in *b-solutions* clearly show the central role of cooperation, as they arose for the following reasons:

- **Different spatial datasets for mapping and collecting data.**

Example: Non-harmonised hydrographic and cartographic data between both Latvia and Lithuania and in the four-lateral border region of the Greater Region prevents territorial planning across national borders⁴⁵.

- **Different technical standards for environmental management criteria.**

Example: The different containers used by Spain and Portugal to collect WEEE (Waste of Electrical and Electronic Equipment) limit the formulation of joint actions of recycling through a clean and circular economy approach within the Interreg project ESTRAEE, as pointed out by one of the participating partners, the Province of Pontevedra⁴⁶.

⁴⁴ Annex of 2020 *b-solutions* compendium, p. 77.

⁴⁵ Annex of 2020 *b-solutions* compendium, p. 36; 40.

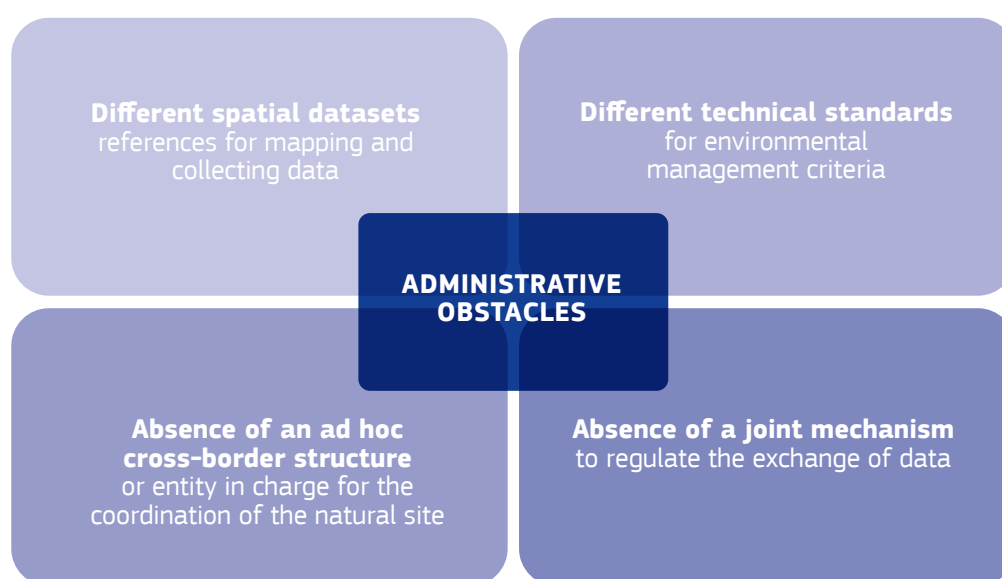
⁴⁶ Annex of 2020 *b-solutions* compendium, p. 139.

- **The absence of an ad-hoc cross-border structure or entity in charge for the coordination of natural sites.**

Example: The management of a nature reserve along the Minho River in the framework of the European network Natura 2000, covering both the Portuguese and the Spanish shores, is hindered by the lack of coordination between competent bodies. The institutions managing the natural park on the two riverbanks face difficulties in coordinating on specific aspects, such as rules for visitors exploring the site⁴⁷.

- The **absence of a joint mechanism** to regulate the exchange of data.

Example: Providing joint emergency services to fight against wildfires is hampered in the Spanish-Portuguese border region. The **lack of a common protocol** for radio communication creates additional problems⁴⁸.



⁴⁷ 2021 *b-solutions* compendium, p. 136.

⁴⁸ 2021 *b-solutions* compendium, p. 133; 139.

Understanding solutions: avenues for enhanced cross-border cooperation

The experts involved in the *b-solutions* initiative suggested potential solutions to overcome the hindrances presented, indicating different actors expected to implement such necessary changes for a greener EU.

LEGAL SOLUTIONS TO BOOST THE EUROPEAN GREEN DEAL IN BORDER REGIONS

As for obstacles of a legal nature, possible ways forward require taking action in the legislative sphere. Very often, to overcome the hurdles, it is deemed necessary to revise or add exceptions to the existing applicable legal framework – and this can be required at different levels of policymaking, as indicated in the following:

LEGAL SOLUTIONS

- Amendments or improvement of existing legislation at the European level
- Fostering harmonisation at the supranational level
- Revision or update of current provisions on one or both sides of the border
- Creation of ad hoc legal frameworks

At the European level

The competence to improve the current legislation and make it easier to apply in border regions here lies with the European Parliament and the Council of the European Union. The European Commission is called to take into consideration the cross-border dimension when proposing new regulations and directives, following a logic based on territorial impact assessments rather than following the national borders.

When the current provisions in European legislative acts are insufficient to regulate a certain field, it is recommended that amendments are made directly in the European legal texts.

In the case of directives, it is important to include mechanisms that would guarantee that these cannot be transposed into incompatible provisions at the national level. **Calls for the coordination of measures, harmonisation** or the introduction of **minimum standards** should be taken into consideration. A good example is the Water Framework Directive Of the European Parliament and the Council⁴⁹, which includes indications on the implementation of the directive when bodies of water cross the boundary into another Member State.

49 Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, *Official Journal L 327*, 22.12.2000, p. 1–73.

A solution proposed under *b-solutions*: amending Directive 2008/50/EC of the European Parliament and of the Council⁵⁰ is proposed as a feasible solution to solve the problem of the different car emissions certificates existing in the Member States. By introducing new standardised European emissions norms, or an automatic control system to be applied by Member States, the cross-border coordination on car emissions certificates would be more effective, with a positive impact on the common efforts to reduce air pollution⁵¹.

SOME INSPIRING PRACTICES TO MOVE FORWARD

In its report *EU Border Regions: Living labs of European integration*, the European Commission mentions the support for prevention and preparedness to address risks with cross-border impacts, which is made possible by provisions in the applicable European legislation on disaster risk management planning, under the Union Civil Protection Mechanism⁵².

Some examples of legislative texts:

- Directive of the European Parliament and of the Council (EU) 2018/2001⁵³ takes into account the cross-border dimension. For instance, it allows renewable energy communities to be open to cross-border participation (Article 22(6))
- Article 16 of Directive (EU) 2019/944⁵⁴ provides for the establishment of citizens energy communities that are open to cross-border participation. Creating such communities is seen as a viable solution to facilitate the exchange of electricity at the distribution level between Germany and the Netherlands.⁵⁵

At the national and sub-national level

When the national legal frameworks that converge at a border are incompatible or lack provisions to regulate certain aspects and policies at a cross-border level, a direct intervention to change, update or formulate new provisions is necessary.

To do so, the involvement of the national or sub-national parliaments and of the ministries competent in the policy areas under analysis is a prerequisite. Direct dialogue with the local and regional administrations that are familiar with the peculiarities of border and cross-border regions is recommended.

Solutions proposed under *b-solutions*:

- **The modification of the existing framework on both sides of the border.**
Example: To achieve better coordination on car emissions certificates, France and Germany can modify their current provisions by introducing the mutual recognition of the different national certificates and by including specific cross-border exceptions; by introducing an ad hoc exemption clause for cross-border areas⁵⁶.

50 Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe OJ L 152, 11.6.2008, p. 1–44.

51 Annex of 2020 *b-solutions* compendium, p. 77.

52 Decision (EU) 2019/420 of the European Parliament and of the Council of 13 March 2019 amending Decision No 1313/2013/EU on a Union Civil Protection Mechanism, *Official Journal L* 77I, 20.3.2019, p. 1–15.

53 Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources, PE/48/2018/REV/1, *Official Journal L* 328, 21.12.2018, p. 82–209.

54 Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU, PE/10/2019/REV/1, *Official Journal L* 158, 14.6.2019, p. 125–199.

55 2021 *b-solutions* compendium, p. 148.

56 Annex of 2020 *b-solutions* compendium, p. 77.

- The **modification of the national framework of only one of the states involved**. This takes place in two different ways:
 - **Updating the national law**. Updating the French Environmental Code to be in line with the current EU provisions on wastewater management would be beneficial to the implementation of a circular economy for wine production at the border with Spain⁵⁷;
 - **Creating a new ad hoc legal framework** through the signing of **bilateral or multilateral agreements** or, alternatively, the revision of already existing ones. A bilateral agreement between the Dutch and the German governments on the basis of Directive of the European Parliament and of the Council (EU) 2018/2001⁵⁸ could foster cooperation in the field of energy between the two countries and, especially, regulate the exchange of clean energy across the border⁵⁹.

At the supranational level

In particularly highly integrated areas, such as the Benelux region or the Scandinavian peninsula, the involvement of supranational institutions seems to be beneficial to the achievement of viable solutions. As for the national level, the competent ministries and supranational parliaments can work in cooperation with the local and regional administrations that have encountered specific obstacles in the first place.

Solutions proposed under *b-solutions*:

- **Creating or amending regulatory frameworks.**
Example: According to the expert involved in this case, an update of the existing Benelux Guide for cross-border planning consultations between Flanders and the Netherlands (2012), to include the CO₂ pipeline planning among the topics already covered by the guidelines by the competent authorities, could allow for the completion of cross-border pipelines⁶⁰.
- **Fostering harmonization.**
Example: At the Swedish-Norwegian border, the suggested solution is for the Nordic Council of Ministers to introduce common requirements in the current national legislations in all Nordic countries on building regulations for wood construction and more resource-efficient buildings⁶¹.

An alternative legal solution: the European Cross-Border Mechanism

In 2018, the European Commission proposed the European Cross-Border Mechanism (ECBM)⁶², a tool meant to facilitate the resolution of legal and administrative obstacles to cross-border cooperation.

EUROPEAN CROSS BORDER MECHANISM (ECBM)

- Voluntary participation in a common mechanism to overcome legal obstacles
- Taking advantage of the Cross-border Cooperation points (CCP)

⁵⁷ Annex of 2020 *b-solutions* compendium, p. 127.

⁵⁸ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources, PE/48/2018/REV/1, *Official Journal L* 328, 21.12.2018, p. 82–209.

⁵⁹ 2021 *b-solutions* compendium, p. 148.

⁶⁰ Annex of 2020 *b-solutions* compendium, p. 136.

⁶¹ 2021 *b-solutions* compendium, p. 130.

⁶² Proposal for a Regulation of the European Parliament and of the Council on a mechanism to resolve legal and administrative obstacles in a cross-border context – COM(2018) 373 final, 29.05.2018.

A core element of the proposed regulation is the voluntary application of the mechanism: Member States would be given the choice of applying the ECBM for a joint project – which can involve infrastructure or services of general economic interest – in a specific border area, or opt for already existing approaches to overcoming legal obstacles. Once they have opted for the mechanism, an evaluation process is set in motion to identify the legal obstacle. The ECBM then provides for different measures to overcome the obstacles, which may involve allowing for derogations from the normally applicable national rules for the specific cross-border project.

At the time of writing this report, the proposal is still in the legislative process and awaiting the position of the European Council. Against this backdrop, the information collected with the *b-solutions* initiative offered clarifications on the potential role of the ECBM in solving legal hindrances if adopted by the Member States. This is showcased, for instance, by the cases addressing the presence of diverging national standards on car emissions certificates in France and Germany⁶³, or the existence of varying and uncoordinated spatial planning criteria to establish CO₂ pipelines across the Dutch-Belgian border⁶⁴.

An element of the proposed ECBM Regulation that is considered particularly useful are the so-called Cross-border Cooperation Points (CCP)(Article 5). In the case highlighting the presence of different national standards for wastewater management and re-use in France and Spain⁶⁵, for instance, the creation of Cross-border Cooperation Points is considered convenient to ensure that the new legal framework proposed to support environmental protection in the area does not result in a distorted the economic competition between similar actors on the two sides of the border.

However, for the proposed ECBM to be helpful, three main conditions are deemed necessary:

- Awareness about its scope and methodology must be raised among stakeholders.
- The regulation must be interpreted as inclusive: The mechanism can be applicable in all areas of law, upon agreement of the involved Member States. Also, rather than for a specific border region, the mechanism can apply for the whole border, if Member States find this feasible.
- It should be used as a complementary tool to other existing measures, taking into consideration that its application would provide tailor-made solutions.

ADMINISTRATIVE SOLUTIONS TO BOOST THE EUROPEAN GREEN DEAL IN BORDER REGIONS

Solutions to overcome the obstacles of non-legal nature identified in the environmental sector within the framework of the *b-solutions* initiative involve the formulation of new coordination methods – in the form of structures and protocols – and the development of new methodologies and technical tools to foster smoother coordination between relevant actors involved in border projects.

ENHANCED ADMINISTRATIVE CAPACITY AND COORDINATION

- Set-up of a joint management system
- Creation of a single or unified command
- Harmonisation of datasets, methods and technical environmental management standards

⁶³ Annex of 2020 *b-solutions* compendium, p. 77.

⁶⁴ Annex of 2020 *b-solutions* compendium, p. 136.

⁶⁵ Annex of 2020 *b-solutions* compendium, p. 127.

The following solutions were commonly suggested by *b-solutions* experts:

- **Set-up of a joint management system.**

Example: In the field of ecosystems and biodiversity preservation, entrusting the management of the cross-border River Minho nature reserve to a local “working community”, composed of the regional authorities of the bordering regions of Galicia and Norte de Portugal, is seen as the most feasible way to facilitate the coordination between the institutions managing the park under the Natura2000 network⁶⁶;

- **The creation of a single or unified command.**

Example: Fighting wildfires through joint teams and operations can be facilitated by the creation of a single or unified command for the management/coordination of emergencies, the formulation of a protocol to establish common procedures for information sharing between municipalities and local authorities, and through the designation of an Air Resource Coordinator to facilitate communication between the local emergency teams and civil protection services of the two neighbouring countries⁶⁷;

- **Harmonisation of datasets, methods or technical environmental management standards.**

Example: At the Latvian-Lithuanian border and in the territory of the Greater Region, stakeholders created joint methodologies with the aim of facilitating the creation of common datasets with relevant hydrographic and territorial data, making the joint management of the territory possible. The harmonisation of the technical requirements can be achieved through the involvement of the national and regional authorities⁶⁸.

These solutions can potentially benefit from Interreg funding, when the fields considered reflect the policy objectives of the scheme, and the creation of European Groupings of Territorial Cooperation (EGTCs) can offer relevant tools to enhance coordination and foster joint investments, research and innovation – all key aspects for the successful achievement of climate neutrality.

CROSS-CUTTING SOLUTIONS

The cross-border obstacles presented above normally arise from a variety of different interrelated factors. Therefore, the main proposed solutions – whether of a legal nature or not – are often complemented with secondary supporting measures or specific approaches to bring about better results.

For example, creating cross-border infrastructure for more sustainable transport systems is a complex undertaking, with the legislative changes that are supposed to facilitate the projects often enacted at the very end of a long development process. To achieve this, ad hoc strategic measures involving a combination of solutions and the development of work plans are necessary.

This is the case for the cross-border bike-sharing project in the border region between Italy and Slovenia. Here, the proposed solution envisaged a staggered approach: in the short-term, a private company should be found as the operator of the existing bike-sharing system, while in the long-term, an agreement between the two municipalities should be reached to transfer the management of the infrastructure to the EGTC GO⁶⁹.

⁶⁶ 2021 *b-solutions* compendium, p. 136.

⁶⁷ 2021 *b-solutions* compendium, p. 133; 139.

⁶⁸ Annex of 2020 *b-solutions* compendium, p. 36; 40.

⁶⁹ 2021 *b-solutions* compendium, p. 145.

CROSS-CUTTING SOLUTIONS

- Creation of a specific consortium of relevant actors from both sides of the border
- Awareness-raising actions
- Training local actors engaged in a specific project

Other solutions proposed under *b-solutions*:

- **The creation of a specific consortium of relevant actors.**

Example: This is recommended as a preliminary step towards resolving the legal obstacle preventing the transport of waste CO₂ from industry at the Belgian-Dutch border in view of re-use. The establishment of a highly integrated system for a circular economy in the area, indeed, requires an initial evaluation of the current territorial needs. To do so, the group should include relevant national institutions, provinces and municipalities with the competence to release the planning permits in the Netherlands, as well as the competent regions, provinces and municipalities in Flanders⁷⁰.

- **The development of awareness-raising actions.**

Example: One of the aspects highlighted in the analysis of the obstacle about wood constructions at the Swedish-Norwegian border was the difficulty in accessing reliable and complete information on the current legal provisions on this field. In light of this, in the expert's opinion, the establishment of a dedicated section showcasing all the available legal and technical information related to wood construction on the Nordic Council information portal *InfoNorden*⁷¹ could help local stakeholders, whether they are administrative bodies or private enterprises, to easily access all the available useful material in one place⁷². Similarly, the partners of the *b-solutions* project "GeoConnectGr" have cooperated with other border stakeholders to raise awareness on the importance of producing interoperable data to be used in the border region⁷³.

- Finally, **training** is also proposed to complement some of the solutions.

Example: Developing ad hoc actions to train local actors engaged in a specific project can contribute to raising awareness about the different legal and technical tools already at their disposal. This was part of the solution proposed for the WEEE project in Spain and Portugal that supports the implementation of cross-border recycling systems⁷⁴.

⁷⁰ Annex of 2020 *b-solutions* compendium, p. 136.

⁷¹ Nordic Council and the Nordic Council of Ministers, *InfoNorden*, <https://www.norden.org/en/info-norden>.

⁷² 2021 *b-solutions* compendium, p. 130.

⁷³ Annex of 2020 *b-solutions* compendium, p. 40.

⁷⁴ Annex of 2020 *b-solutions* compendium, p.139.

Conclusions and key findings

The coming years will be critical to turn the European Green Deal into a reality and encourage the deep-rooted changes that are so essential in the fight against climate change.

With this publication, specific evidence on strategies to implement the European Green Deal in cross-border contexts is also offered. Ensuing an analysis of the cases collected with the *b-solutions* initiative, cross-border cooperation actors have access to increased knowledge of the existing problems.

A small sample of obstacles linked to Green Deal objectives were identified in 15 Member States plus Norway, along 12 border areas, corresponding to all the priority areas identified by the European Green Deal. Their participation showed that different border regions face similar challenges in implementing actions for a more sustainable Europe, and allows for the following conclusions:

- inconsistencies in the legal frameworks related to green policies in place in neighbouring Member States are the most frequent cause of obstacles. In addition, diverging practices or technical features of specific actions hamper the completion of cross-border actions;
- one of the causes of these inconsistencies is the Member States' exclusive competence on certain matters that regulate actions, infrastructure and projects implementing the Green Deal;
- obstacles arise more often in those areas and regions where national laws have not transposed the most recent EU legal framework, which establishes common requirements and standards to steer the Member States towards more environmentally sustainable regulatory provisions;
- an additional common hindrance in the field of green policies is the lack of horizontal cooperation among the stakeholders involved in a specific project or action.

For local and regional authorities and actors willing to implement projects in pursuit of the European Green Deal in cross-border contexts, the viable solutions proposed in the framework of *b-solutions* would allow them to resolve the difficulties listed above.

Often, these entail amendments to the legislation concerned, introducing exceptions to the local, national or European regulation in order to enable the diverging laws to be applied harmoniously. In this sense, the signing of ad hoc agreements for the completion of green projects is often regarded as the most suitable solution.

Yet, to make cross-border cooperation more sustainable in the long term, the creation of coordinating structures and common protocols is also considered helpful. EGTCs in particular are often indicated by the experts as potential facilitators of cross-border initiatives in pursuit of a green transition.

Additionally, actors implementing the European Green Deal in cross-border contexts should have access to specific training. Access to information and competences in the green sector in the cross-border area as a whole is important, in order to support collaboration among actors in different Member States to set up joint green initiatives. The use of Interreg funds, when possible, can facilitate such cooperation.

Local and regional authorities, businesses and other stakeholders aiming to take action to reduce greenhouse gas emissions, protect nature and biodiversity, prevent and remedy pollution, including in air, water and soil, and adapt to climate change across national borders must create synergies and make good use of the funding and legal tools at their disposal, in order to contribute to the goal of transforming the EU into a climate-neutral, resource-efficient economy. Every solution must be found individually, since it is rooted in the specific legal and cultural framework of the territories involved, and is dependent on the competent authorities.

The fight against climate change must take place everywhere and harmoniously in order to be effective. The European Green Deal must be implemented across borders and in every region – but for this to happen, actors in border regions need to be able to introduce amendments to national and European regulations more easily, and coordination across the border must be facilitated.

Only under these conditions can border regions effectively contribute to the European Green Deal.

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Annex:

self-assessment tool

DIY: A ROADMAP TOWARDS FINDING SOLUTIONS TO OBSTACLES TO CROSS-BORDER COOPERATION

I. Understanding the obstacle

To understand the obstacle, it is useful to carry out an analysis of:

- the general context of the obstacle;
- the area(s) of law that the obstacle touches on;
- the specific obstacle: What is it? In what way does it hamper cross-border cooperation in this specific border region?
- the nature of the obstacle:
 - is it a legal obstacle, and thus originates in conflicting/missing laws? (A)
 - is it an administrative obstacle, meaning that it originates in how the law is practiced? (A)
 - is it due to a lack of knowledge? (B)
 - is it due to a lack of cooperation? (B)
- other potential obstacles that come along with it.

II. Assessing the obstacle

Once it is clearer what the obstacle is about, it is helpful to have a deeper look at:
[if the obstacle is of a legal or administrative nature (A)]:

- the explicit indication of the precise legal provisions of all Member States involved
- the origin of the obstacle:
[if of a legal nature]
- does it originate in EU law?
- does it result from national legislation?
- does it happen because of a sub-national law?
[if of an administrative nature]
- does it originate in a rule?
- does it result from a practice?
- the origin of the cause of the obstacle:
- is it because of a lack of regulation?
- is it because of the incompatibility of the laws on both sides of the border?

- the explicit indication of the competent authorities
[if the obstacle is due to a lack of knowledge or of cooperation (B)]:
- the explicit indication of the precise legal provisions of all Member States involved that are relevant to the obstacle

III. Understanding the potential solutions

Based on the information gathered above, it is possible to assess which solutions would be the most helpful, given the specific context.

There are many possible solutions – these are:

of a legal nature:

- At the European level
 - Modifying European regulations
 - Adopting or revising the transposition of European directives
 - Adding exceptions
- At the national level or subnational level
 - Modifying national/subnational law in one member state
 - Modifying national/subnational law in all member states involved
 - Adding exceptions to national/subnational law in one member state
 - Adding exceptions to national/subnational law in all member states involved
 - Stipulating Bilateral Agreements (new or revised) (among MS or another level or administration)
 - Stipulating supranational solutions (e.g., Benelux)

of an administrative nature:

- at the national level or subnational level
 - introducing new or revised joint administrative procedures
 - creating committees or other coordination structures (including EGTCs, info points, etc.)
 - integrating into already existing institutions

of another nature:

- Awareness raising actions
- Training initiatives
- New/revised coordination mechanisms

MoU, strategic approach, set-up of a new institution (e.g., EGTC) to better coordinate cooperation, case-by-case approach, etc.

Other relevant aspects to look for

- Helpful general/additional information on the case
- References to similar obstacles/solutions in other border regions: Do comparable solutions already exist in other cross-border areas/for other areas of law? Can those solutions/approaches be applied to this case? Are there best practices that can be learned from?

This publication is a tool that the Association of the European Border Regions (AEBR) and the European Commission provide to border stakeholders, regional and national authorities to support them in setting up and carrying out cross-border initiatives to promote a more effective implementation of the European Green Deal in border regions.

It uses evidence extracted from the analysis of 16 cases of border obstacles identified in the framework of the b-solutions initiative and outlines possible strategies to overcome them, paving the way to the realisation of policies for a “greener” Europe. As such, it complements other recommendations and legislative or financial tools already developed by the European institutions.

Two additional in-depth thematic analyses offer specific insights on the hurdles and relative solutions to Cross-Border Public Services (CPS) and Education and Employment.

For more details on the cases under analysis, two compendiums provide precise information on the legal frameworks of 90 cases collected through b-solutions.

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